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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Peru

1. The Committee considered the second periodic report of Peru (CRC/C/65/Add.8), submitted on 25 March 1998, at its 605th and 606th meetings (see CRC/C/SR.605 and 606), held on 21 January 2000, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the wealth of information provided in the State party's second periodic report. Although no explicit reference to the Committee's previous recommendations is contained in the report, the numerous activities mentioned in it are follow-up measures to these recommendations. The Committee notes the submission of the written answers to the list of issues (CRC/C/Q/PER/2), although not in time for the Committee to take them fully into account during the dialogue with the State party. The Committee notes with appreciation that the quality of the State party's delegation allowed not only for an open and frank dialogue but also provided the Committee with precise and valuable additional information about the implementation of the Convention in the State party.

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* At the 615th meeting held on 28 January 2000.

B. Follow-up measures undertaken and progress achieved by the State party

3. The launching of initiatives such as the National Strategy to Combat Poverty (1995-2000) and the National Programme of Action for Children (1996-2000), as well as the development of regional children's plans of action, are regarded as positive measures in line with the Committee's recommendations (see A/49/41, para. 163).

4. The Committee welcomes the participation of non-governmental organizations in the process of elaboration of the State party's second periodic report as well as in other projects and programmes for children, in line with the Committee's recommendation (ibid., para. 159).

5. The translation of the Convention into Quechua, one of the official languages in the State party, is also regarded as a positive measure in line with the Committee's recommendation (ibid., para. 165).

6. The State party's accession to the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women, the enactment of Law 26260 for protection against domestic violence, and of Law 27055 containing reforms criminalizing sexual violence issues are regarded as positive steps to combat violence against children and for the treatment of victims, in line with the Committee's recommendation (ibid.).

7. The Committee welcomes the State party's accession to the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption and to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and Their Destruction.

8. In light of its concern on the situation of child labour (ibid., para. 156), the Committee welcomes the signing of a memorandum of understanding between the State party and the International Labour Organization (ILO)/International Programme for the Elimination of Child Labour (IPEC) as well as the activities undertaken under this programme.

C. Factors and difficulties impeding further progress in the implementation of the Convention

9. The Committee notes that widespread poverty and long-standing economic and social disparities are still affecting the most vulnerable groups, including children, and hampering the enjoyment of the rights of the child in the State party.

10. While noting the decrease in political violence and terrorist activities, the Committee notes with concern that the consequences of these activities are still having a negative impact on the life, survival and development of children in the State party.

D. Principal subjects of concern and recommendations of the Committee

1. General measures of implementation

Legislation

11. While the Committee welcomes the implementation of the Children and Adolescents Code (1993), it remains concerned about the application of Decree 895 (Ley contra el Terrorismo Agravado) and Decree 899 (Ley contra el Pandillaje Pernicioso), both establishing lower legal minimum ages for criminal responsibility than the one contained in the Code and therefore not in line with the principles and provisions of the Convention. In this regard, the Committee takes note of the enactment of Law 27235, which modifies Decree 895, transferring the jurisdiction of cases of terrorism from military to civilian courts, but retaining the provision regarding lower legal ages of criminal responsibility. **The Committee recommends that the State party consider developing alternative measures and programmes to deal with the problems addressed by Decrees 895 and 899 in order to bring them into line with the Convention on the Rights of the Child and the Children and Adolescents Code.**

Coordination and monitoring

12. While welcoming the follow-up measures taken to improve the coordination and monitoring of the implementation of the Convention, such as the establishment of the Ministry for the Enhancement of Women and Human Development (PROMUDEH) and the Commission for the Coordination of the National System for Comprehensive Care of Children and Adolescents (known as the Ente Rector), the Committee is of the opinion that further efforts are needed to strengthen the role of these mechanisms. **The Committee recommends that the State party continue taking measures to strengthen the Ente Rector by providing it with adequate financial and human resources to carry out its mandate in an effective manner. The Committee encourages the State party to continue with its process of decentralization of the Ente Rector in order to ensure the monitoring of the implementation of the Convention throughout all the provinces of the State party's territory. In this regard, the Committee recommends that the State party take effective measures to guarantee broader representation in the Ente Rector, including at the municipal level, in order to strengthen its role.**

Local structures for the defence of children's rights

13. The Committee welcomes the establishment of Children and Adolescents Defence Centres, but it remains concerned about the limited capacity of these new entities, their limited presence in the highland provinces, the poor qualifications of the staff and the inadequate level of their financial resources. **The Committee recommends that the State party continue with its efforts to strengthen the mandate of the Children and Adolescents Defense Centres. The Committee also recommends that the State party provide the centres with adequate levels of financial and human resources to carry out their mandate in an effective manner.**

Data-collection system

14. While taking note of the statistics on the situation of children contained in the annexes to the State party's report and the efforts undertaken for the monitoring of the National Plan of Action for Children, the Committee remains concerned about the lack of disaggregated data for all areas covered by the Convention. **The Committee recommends that the State party continue reviewing and updating its data-collection system, with a view to including all areas covered by the Convention. In this regard, the Committee encourages the State party to use the information provided by its next population census as a basis for the development of disaggregated data on children's rights. Such a system should include all children under 18 years of age, specifically emphasizing the situation of vulnerable groups of children, as a basis for assessing progress achieved in the realization of children's rights and to help design policies for better implementation of the provisions of the Convention. Furthermore, the Committee encourages the State party to seek technical assistance from, inter alia, UNICEF.**

Allocation of budgetary resources (art. 4)

15. While acknowledging the measures taken in the areas of health and education, the Committee remains concerned about the limitations imposed, owing to budgetary restrictictions, on the full implementation of social programmes for children, in particular the National Plan of Action for Children. **The Committee reiterates its recommendation (ibid., para. 163) that such measures should be undertaken "to the maximum extent of [...] available resources" in light of articles 2, 3 and 4 of the Convention and that particular attention be paid to the protection of children belonging to vulnerable and marginalized groups. The Committee further recommends that the State party develop a locally based system to monitor and evaluate the situation of children living in areas of extreme poverty in order to give priority to budget allocations for these groups of children. In this regard, the Committee encourages the State party to seek technical assistance from, inter alia, UNICEF.**

3. General principles

The right to non-discrimination (art. 2)

16. While welcoming the adoption of special programmes, within the National Plan of Action for Children, for the protection of the rights of the most vulnerable children, the Committee is of the opinion that these measures need to be reinforced. Concern is expressed at the existing patterns of gender and racial discrimination; at the marginalization of children belonging to indigenous populations; and at the precarious situation of children from the rural highlands and the Amazonia region, especially regarding their limited access to education and health services. **In light of its recommendation (ibid., para. 154), the Committee further recommends that the State party increase measures to reduce economic and social disparities, including between urban and rural areas, to prevent discrimination against the most disadvantaged groups of children, such as girls, children with disabilities, children belonging to indigenous and ethnic groups, children living in and/or working on the streets and children living in rural areas, and to guarantee their full enjoyment of all the rights recognized in the Convention.**

Best interests of the child (art. 3)

17. The Committee takes note of the efforts made by the State party for the implementation of the principle of "best interests of the child" (art. 3) in the judicial and other administrative procedures. The Committee is of the opinion that these measures need to be strengthened. **The Committee recommends that further efforts be made to ensure the implementation of the principle of "best interests of the child". This principle should also be reflected in all policies and programmes relating to children. Awareness-raising among the public at large, including community leaders, as well as educational programmes on the implementation of these principles should be reinforced in order to change traditional perceptions of children who are too often regarded as objects (Doctrina de la Situación Irregular) rather than subjects of rights.**

Right to life, survival and development (art. 6)

18. While the Committee notes with appreciation the establishment of special programmes for children belonging to families who have been displaced as a result of political violence and terrorism, the Committee remains concerned about the short- and long-term consequences of the decreasing but still prevailing climate of violence in several regions of the State party's territory (emergency zones), which threatens the development and right to life of children. **The Committee reiterates its recommendation (ibid., para. 160) that the State party continue taking effective measures to protect children against the negative impact of internal violence, including the establishment of rehabilitation measures for child victims of this violence.**

4. Civil rights and freedoms

Birth registration (art. 7)

19. With regard to the Committee's recommendation (ibid., para. 161) to ensure birth registration in areas affected by internal violence, the Committee welcomes the State party's efforts in this area but is of the opinion that greater efforts are needed to ensure that all children are registered, especially those belonging to the most vulnerable groups. **In light of article 7 of the Convention, the Committee recommends that the State party continue with its measures to ensure the immediate registration of the birth of all children, especially of those living in rural and remote areas and belonging to indigenous groups.**

Respect for the views of the child (art. 12) and other participatory rights of children

20. Although the Committee welcomes the establishment of initiatives to promote children's participatory rights, such as PROMUDEH's Network of Adolescent Leaders, it is of the opinion that these efforts need to be improved and strengthened. **In light of articles 12 to 17 of the Convention, the Committee recommends that further measures be undertaken to promote the participation of children in the family, at school and in other social institutions, as well as to guarantee the effective enjoyment of their fundamental freedoms, including those of opinion, expression and association.**

5. Family environment and alternative care

Children deprived of a family environment

21. While the Committee welcomes the measures taken to comply with the Committee's recommendation (ibid., paras. 154 and 163), it is still concerned about the insufficient alternative care available for children deprived of a family environment. **The Committee recommends that the State party continue developing alternative measures to institutional care of children, in particular by promoting foster care. The Committee further recommends that the State party reinforce its monitoring and evaluation system to ensure the adequate development of children living in institutions and to continue taking measures to review periodically the placement and treatment of children as enshrined in article 25 of the Convention.**

Protection from abuse, neglect and violence (art. 19)

22. The Committee welcomes the legislative reforms aiming at preventing and combating domestic violence, but it remains concerned that physical and sexual abuse of children - within and outside the family - is a widespread phenomenon in the State party. **In light of, inter alia, articles 3, 6, 19, 28 (2) and 39 of the Convention, the Committee recommends that the State party continue taking effective measures to prevent and combat abuse and ill-treatment of children within the family, at school and in society at large, including through setting up multidisciplinary treatment and rehabilitation programmes. It suggests, inter alia, that law enforcement should be strengthened with respect to such crimes; that adequate procedures and mechanisms to deal effectively with complaints of child abuse should be reinforced in order to provide children with prompt access to justice; and that the use of corporal punishment at home, in schools and other institutions be explicitly prohibited by law. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue. The Committee encourages the State party to consider seeking to this effect international cooperation from, inter alia, UNICEF and international non-governmental organizations.**

6. Basic health and welfare

Children with disabilities (art. 23)

23. With regard to the situation of children with disabilities, the Committee remains concerned at the inadequate infrastructure, limited number of qualified staff, specialized institutions for these children, and the inadequate resources, both financial and human. In addition, the Committee is particularly concerned at the insufficient implementation of the existing governmental policies and programmes for children with disabilities and at the insufficient monitoring of private institutions for these children. **In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted on its day of general discussion on children with disabilities (see A/53/41, chap. IV, sect. C), the Committee recommends that the State party develop early identification programmes to**

prevent disabilities, implement alternative measures to the institutionalization of children with disabilities, envisage awareness-raising campaigns aiming at the elimination of discrimination against them, establish special education programmes and centres and encourage their inclusion in the educational system and in society, and establish adequate monitoring of private institutions for children with disabilities. The Committee further recommends to the State party to seek technical cooperation from WHO and specialized non-governmental organizations for the training of professional staff working with and for children with disabilities.

Right to health and access to health services (art. 24)

24. While acknowledging the measures taken to improve the health of children, in particular initiatives related to the reduction of infant mortality, the Committee remains concerned about the persistence of regional disparities in access to health care, and of high rates of malnutrition of children, especially in rural and remote areas and in particular among children belonging to indigenous groups. The Committee is also concerned about the high maternal mortality and teenage pregnancy rates as well as about the insufficient access by teenagers to reproductive health education and counselling services. The increasing rates of substance abuse and of HIV/AIDS among children and adolescents and the constant discrimination they are exposed to are also matters of concern. **The Committee recommends that the State party continue taking effective measures to ensure access to basic health care and services for all children. More concerted efforts need to be taken to guarantee equal access to health care and to combat malnutrition, with special emphasis on children belonging to indigenous groups and children living in rural and remote areas. The Committee recommends to the State party to continue with its efforts to prevent HIV/AIDS and to take into consideration the Committee's recommendations adopted on its day of general discussion on children living in a world with HIV/AIDS (see CRC/C/80, chap. III, sect. C). The Committee also recommends that further efforts be undertaken for the development of child-friendly counselling services as well as care and rehabilitation facilities for adolescents. In this regard, the Committee encourages the State party to continue working in this field in cooperation with, inter alia, WHO, UNICEF and UNAIDS.**

7. Education, leisure and cultural activities

25. While the Committee notes with appreciation the State party's achievements in the field of education, it remains concerned about the high drop-out and repetition rates in primary and secondary school, and about the disparities in the access to education between rural and urban areas. The Committee is particularly concerned about the limited access to education for children belonging to indigenous groups and the low relevance of the current bilingual educational programmes available for them. **In light of articles 28, 29 and other related articles of the Convention, the Committee recommends that the State party continue with its efforts to strengthen its educational policies and system in order to improve ongoing retention programmes and vocational training for drop-outs; to extend school coverage and to improve school quality, making schools more responsive to geographical and cultural diversity; and to improve the relevance of bilingual education programmes for children belonging to indigenous groups. The Committee encourages the State party to consider seeking technical assistance in this area, inter alia from UNICEF and UNESCO.**

8. Special protection measures

Protection from economic exploitation (art. 32)

26. With regard to the Committee's recommendation (A/49/41, para. 164), the Committee takes note that the State party has submitted a proposal to Congress to raise the minimum legal age for admission to employment from 12 to 14 years. Nevertheless, the Committee is still concerned that economic exploitation of children remains one of the major social problems in the State party (e.g. in the indigenous communities in the highlands) and that law enforcement is insufficient to address this problem effectively. **The Committee encourages the State party to complete as soon as possible its legislative reform to raise the minimum legal age for admission to employment to at least 14 years. The Committee also encourages the State party to consider ratifying the Minimum Age Convention, 1973 (No. 138), and the new Worst Forms of Child Labour Convention, 1999 (No. 182) of the ILO. The Committee further recommends that the State party take effective measures to address the situation of children involved in hazardous labour, especially in the informal sector. Furthermore, the Committee recommends that child labour laws should be enforced, the labour inspectorates strengthened and penalties imposed in cases of violation. The Committee recommends that the State party continue working in cooperation with ILO/IPEC.**

Sexual exploitation and abuse (art. 34)

27. With regard to the sexual exploitation of children, while noting with appreciation the reforms to the State party's Children and Adolescents Code, Penal Code and Penal Procedures Code, as well as other measures in this area, the Committee remains concerned at the absence of a national plan of action to combat and prevent sexual exploitation of children. The limited awareness among the population on sexual exploitation and abuse and on the available measures to identify and report cases of abuse is also a matter of concern. **In light of article 34 and other related articles of the Convention, the Committee recommends that the State party conduct a national study on the issue of commercial sexual exploitation of children as a basis to design and implement a comprehensive national plan of action to prevent and combat this phenomenon, and continue conducting awareness-raising campaigns on this issue. The Committee recommends to the State party to take into account the recommendations formulated in the Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children held in Stockholm in 1996.**

Administration of juvenile justice (arts. 37, 40 and 39)

28. With regard to the administration of the juvenile justice system, the Committee welcomes the creation of Family Courts and of specialized prosecutors to deal with children's cases. But the Committee remains concerned that the provisions of the Children and Adolescents Code regarding the administration of juvenile justice are not fully implemented, inter alia that the various services in this area are not adequately staffed and trained; that conditions in detention centres are poor and not adequately monitored; that alternative measures to detention are not sufficiently developed. **In light of articles 37, 40 and 39 and other relevant United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for**

the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, the Committee recommends that the State party:

(a) Ensure that deprivation of liberty is used only as a measure of last resort;

(b) Improve the living conditions of children in prisons and other detention centres;

(c) Strengthen and increase its efforts to develop alternative measures to the deprivation of liberty;

(d) Develop effective probation services for juveniles, in particular those who are released from detention centres, in order to support their reintegration in society;

(e) Develop alternative measures to deprivation of liberty; and

(f) Strengthen its training programmes on the relevant international standards for judges, professionals and staff working in the field of juvenile justice.

Furthermore, the Committee recommends to the State party to take into consideration the Committee's recommendations adopted on its day of general discussion on the administration of juvenile justice (see A/51/41, chap. IV, sect. D) and to consider seeking technical assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, UNICEF and the International Network on Juvenile Justice through the Coordination Panel on Juvenile Justice.

Dissemination of the CRC reports (art. 44)

29. **Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that its periodic report and the written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the parliament and the general public, including concerned non-governmental organizations.**